IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

CRL. REF. No. 3 of 2006()
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CP.1/2004 of J.M.F.C.-I,KOTTARAKKARA
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PETITIONER
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REPORT FROM THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, ADHOC III, KOLLAM.

BY ADV. ADV.V.P.JOLY (STATE BRIEF)

RESPONDENTS:
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STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. PUZHAKKARA MUHAMMED, PUBLIC PROSECUTOR

THIS CRIMINAL REFERENCE HAVING BEEN FINALLY HEARD ON 30/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K.R. UDAYABHANU, J**

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**CRL. Ref. NO. 3 OF 2006**

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**Dated this the 30th day of January 2006**

**O R D E R**

The matter arises out of the reference made by the Additional District and Sessions Judge, Adhoc-II, Kollam with respect to the proceedings against the 1st accused in C.P. 1/2004 which was taken to the file as S.C. 1097/2004. It was found during proceedings in the sessions case i.e., S.C. 1097/2004 that the 1st accused was never produced before the Judicial First Class Magistrate -I, Kottarakara who committed the case to the Sessions Court. On a verification of the concerned records of the Central Prison, Thiruvananthapuram, wherein A1 was lodged, it was revealed that on the date on which he has been alleged to have been produced before the court, that in fact he was not produced. It appears that somebody else was so produced, and the person produced was not A1, Rajendran in C.P. 1/2004. It was in the above circumstances that the matter was referred to this court for appropriate orders.

2. I find that in view of the above fact situation, the committal of the case of the 1st accused in C.P. 1/2004 and the consequent proceedings against the 1st accused in S.C. 1097/2004 cannot be sustained. Hence, the committal of the case of A1 in C.P. 1/2004 and the subsequent proceedings before the Sessions Court against A1 is herewith quashed. The records in the matter will be sent back to Judicial First Class Magistrate, Kottarakara who shall proceed afresh in the matter of A1.

The Crl. Ref. is disposed of accordingly.

**K.R. UDAYABHANU, JUDGE.**

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